

28. (Original) The insole according to Claim 1, wherein said insole is sized to accommodate solely the metatarsal area of a foot.

REMARKS

The Office Action dated May 9, 2003, has been reviewed in detail along with all references made of record. Reconsideration of the claims of the instant application is respectfully requested in view of the following remarks.

Applicants would like to extend its appreciation to the Examiner for the time and attention accorded this case. As will be set forth in detail herebelow, the issues raised by the Office in the outstanding Office Action, when reconsidered in light of the foregoing amendments and the following comments, should be resolved in Applicant's favor.

As a result of Claims 9-11 having been withdrawn from consideration, these are presently cancelled without prejudice to their further presentation in this or a continuing application. Applicants acknowledge that Claim 11, in depending from Claim 10, does not appear to read upon the elected species.

Also, it has come to Applicant's attention upon further review that Claim 8 also does not appear to read upon the elected species and that its inclusion in the set of claims appearing to read upon the elected species may have represented an inadvertent

error. Accordingly, Claim 8 is also cancelled herewith without prejudice to its further presentation in this or a continuing application.

Claims 1-8 and 12-28 are rejected under 35 U.S.C. 112, second paragraph. Claim 8 has been cancelled without prejudice. Various amendments have been made to Claims 1, 2, 4 and 6 in order to impart even more clarity to the claimed elements. It is respectfully submitted that the subject matter of Claims 3 and 5, which immediately depend from Claims 2 and 4, respectively, is further clarified as a result.

In view of the foregoing, it is respectfully submitted that the present 112 rejection has been overcome. Reconsideration and withdrawal thereof is hereby respectfully requested.

Claims 1-8, 18, 20 and 26 are rejected under 35 U.S.C. 102(b) in view of Sessa. Claims 1-7, 12-14, 17-23 and 26 are rejected under 35 U.S.C. 102(b) in view of Yung-Mao. Claims 1-6, 8, 12-18 and 26 are rejected under 35 U.S.C. 102(b) in view of Sicurella. Claims 1-6, 12-18 and 23-28 are rejected under 35 U.S.C. 102(b) in view of Kramer.

Sole independent Claim 1 has been amended to indicate that the claimed footwear insole comprises a base, a plurality of compressible protrusions protruding in a direction away from said base and for protruding away from a wearer's foot, and means

for interconnecting said compressible protrusions, said interconnecting means combining with said compressible protrusions to provide for strict compression of said compressible protrusions in response to a compressive force, whereby a column-buckling effect is avoided. It is respectfully submitted that such features are neither taught nor suggested by the applied art.

Sicurella appears to be directed to an insole in which protruding elements are to be disposed towards a wearer's foot. Tabs and fins (2) are either independent or interconnected. To the extent they are interconnected, however, it is clear that the structural integrity of the tabs and fins is so tenuous as to be prone to the very type of column-buckling explicitly avoided in accordance with embodiments of the present invention as defined by Claim 1. The intended self-massaging effect of the tabs and fins reinforces this notion, as the structure of the tabs and fins is clearly intended to provide structural deformations sufficiently pronounced as to promote a targeted, self-massaging effect. Further, the intended self-massaging effect of the tabs and fins is also enhanced by the fact that they are intended to be disposed towards, not away from, a wearer's foot; to be disposed away from a wearer's foot would clearly compromise the intended effect of the Sicurella insole. Accordingly, it is respectfully submitted that Claim 1 fully distinguishes over Sicurella.

Yung-Mao, as best understood, is directed to a mid-sole that offers independent suspension with individual protruding elements. The protruding elements appear to be arranged so as to accommodate an observation window in the shoe. In stark contrast, Claim 1 is directed to an insole, which would appear to be widely recognized by those of ordinary skill in the art as being a distinctly different shoe component from, and entailing different standards and considerations as compared to, a "midsole". Further, the independent protruding elements of Yung-Mao do not in any way appear to be arranged or configured with the type of structural integrity that would readily avoid column-buckling as with an insole according to Claim 1. Accordingly, it is respectfully submitted that Claim 1 fully distinguishes over Yung-Mao.

Kramer, as best understood, also relates to a midsole. In this case, there are substantial deformation nubs that provide cushioning and air circulation and which are disposed towards, not away from, a wearer's foot. To fulfill the purposes of cushioning and air circulation, it is highly evident that the nubs must be easily compressible and significantly deformable. In this vein, the independent nubs of Kramer do not in any way appear to be arranged or configured with the type of structural integrity that would readily avoid column-buckling as with an insole according to Claim 1. Further, the fact that they are intended to be disposed towards, and not away from, a wearer's

foot stands in stark contrast with an insole according to Claim 1. And indeed, as stated above, Claim 1 is directed to an insole *per se*, which would appear to be widely recognized by those of ordinary skill in the art as being a distinctly different shoe component from, and entailing different standards and considerations as compared to, a "midsole". Accordingly, it is respectfully submitted that Claim 1 fully distinguishes over Kramer.

Finally, as best understood, Sessa is directed to a midsole or outer sole that provides compression via longitudinal spaced transverse ribs which run laterally. Spaces between the ribs apparently allow the ribs to deform sideways. This allowance of sideward deformation stands in stark contrast to an insole according to Claim 1, wherein column-buckling is avoided by way of an interconnection arrangement between protrusions, which provides a stabilizing effect. And again, Claim 1 is directed to an insole *per se*, which would appear to be widely recognized by those of ordinary skill in the art as being a distinctly different shoe component from, and entailing different standards and considerations as compared to, a "midsole" or outer sole. Accordingly, it is respectfully submitted that Claim 1 fully distinguishes over Sessa.

By virtue of dependence from what is believed to be an allowable Claim 1, it is respectfully submitted that Claims 2-7

and 12-28 are also allowable. As stated above, Claim 8 has been cancelled herein without prejudice.

In view of the foregoing, it is respectfully submitted that the present 102(b) rejections have been overcome. Reconsideration and withdrawal thereof are hereby respectfully requested.

References Made of Record but not Applied:

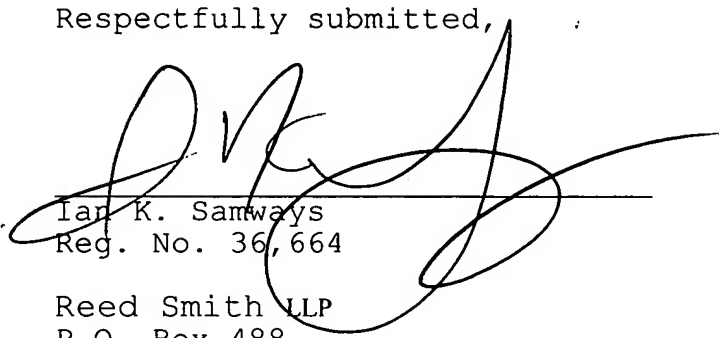
The references made of record but not applied against the claims have been reviewed. Applicants acknowledge that the Office has deemed such references not sufficiently relevant to have been relied upon in the outstanding Office Action. However, to the extent that the Office may apply such references against the claims in the future, Applicants are prepared to fully respond thereto.

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In summary, Applicants respectfully submit that the instant application, including Claims 1-7 and 12-28, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited.

Respectfully submitted,

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